**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

COMPANY APPLICATION NO. 42 OF 2004
IN
COMPANY PETITION NO.988 OF 2001

Shri. V. N. Wig. ...Petitioner.
Vs.
M/s. Ramnath International Construction (P) Ltd.
...Respondent.

Mr. U.M. Mahajan i/by Divekar & Co. for the Petitioner.

None for the Respondent.

**CORAM : A.M. KHANWILKAR, J.**
**DATED : 9/6/2005**

**P.C.:**

1. The company petition has already been admitted on 20.3.2005. Same has been duly advertised and published. The respondent company has been served with the copy of the present application. None appears for the respondent company though M/s. Vimadalal & Company has entered appearance and filed reply opposing this application. In the circumstances, hearing of the application was proceeded exparte against the respondent.

2. Heard counsel for the applicant. With the assistance of the counsel for the applicant, I have

gone through the pleadings filed by the parties. As mentioned earlier, the company petition has been admitted and has been duly advertised and published. That order has been allowed to become final. The present application for appointment of provisional liquidator in respect of the respondent company is resisted by the company in the reply on the stand that the claim of the applicant is founded on the documents which have been signed by one Mr.V.B. Sood who had no authority to execute such documents on behalf of the company. This fact can be seen from the reply filed by the respondent to the present application. The rejoinder affidavit of the petitioner and the documents have placed on record which clearly indicate that said Mr. Sood was competent to execute the documents such as the subject documents for and on behalf of the company. The cheque issued by the company under the signature of Mr. Sood in favour of the petitioner is also placed on record. Besides, my attention has been drawn to the fact that the averments made in support of the prayer clause (b) in the company application that the respondent company was in the process of disposing of its property has not even referred to in the reply affidavit. In my opinion, the explanation offered on behalf of the respondent

company to resist the present application is untenable. Besides, as the assertions in support of the relief claimed in the application that the company is in the process of disposing of its property has remained unchallenged. In my opinion, the petitioner is entitled to relief in terms of prayer clause (a). Hence, application made absolute in terms of prayer clause (a).

**(A.M. KHANWILKAR,J.)**